

1 Edward D. Boyack, Esq.
2 Nevada Bar No. 5229
3 Colli C. McKiever
4 Nevada Bar No. 13724
5 BOYACK ORME & ANTHONY
6 7432 W. Sahara Avenue, Suite 101
7 Las Vegas, Nevada 89117
8 Ted@boyacklaw.com
9 Colli@boyacklaw.com
10 702.562.3415
11 702.562.3570 (fax)
12 *Attorney for Defendant Rancho San Rafael
13 Townhomes Phase I HOA*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

10 NATIONSTAR MORTGAGE LLC.

Plaintiff

12 | VS.

**RANCHO SAN RAFAEL TOWNHOMES,
PHASE I HOMEOWNERS ASSOCIATION
AND THUNDER PROPERTIES INC.**

15 || Defendants.

Case No. 2:16-cv-1961-GMN-NJK

RANCHO SAN RAFAEL TOWNHOMES PHASE I HOA'S MOTION FOR EXCEPTION TO PARTY ATTENDANCE REQUIREMENTS

RANCHO SAN RAFAEL TOWNHOMES,
PHASE I HOMEOWNERS ASSOCIATION
AND THUNDER PROPERTIES INC.

10 || Third-party Plaintiff

19 | VS.

HAMPTON & HAMPTON COLLECTIONS,
LLC.; DOES 1 - 10; ROE CORPORATIONS 11-
20, inclusive, jointly and severally,

22 || Third-party Defendant

23

NOW COMES the Defendant and Third Party Plaintiff, RANCHO SAN RAFAEL TOWNHOMES, PHASE I HOMEOWNERS ASSOCIATION, through its counsel, EDWARD D. BOYACK, ESQ. and COLLI C. MCKIEVER, ESQ. and of the law firm BOYACK ORME & ANTHONY, who hereby file this Motion for Exception to Party Attendance Requirement.

This Request is made pursuant to the attached Memorandum of Points and Authorities, all papers and pleadings on file herein, all judicially noticed facts, and any such further oral argument as the Court may entertain.

Dated this 5th day of July, 2017.

BOYACK ORME & ANTHONY

By: /s/ Edward D. Boyack

Edward D. Boyack, Esq.

Nevada Bar No. 5229

Colli C. McKiever, Esq.

Nevada Bar No. 13724

7432 W. Sahara Avenue, Suite 101

Las Vegas, NV 89117

Attorney for Defendant Rancho S.

Townhomes Phase I HOA

MEMORANDUM OF POINTS AND AUTHORITIES

On June 26, 2017, the Court entered an Order referring the above-identified litigation to the Magistrate Judge for a settlement conference. See ECF No. 36. Pursuant to this Order the Court scheduled the settlement conference for September 14, 2017 at 9:30 a.m. See ECF No. 36. Included within the Order was a requirement that “[a]ll counsel of record who will be participating in the trial and who have full authority to settle this case, all parties appearing pro se, if any, and all individual parties must be present. In the case of non-individual parties, counsel of record shall arrange for an officer or representative with binding authority to settle this matter up to the full amount of the claim or last demand made to be present for the duration of the conference.” *Id.* at 1:21-2:4 (emphasis in original). The Order also stated, “[a] request for an exception to the above attendance requirements must be filed and served on all parties within seven (7) days of the issuance of this order.” *Id.* at 2:5-7.

“A settlement conference without all of the necessary parties present is not productive.” *Painter. Joint Comm. v. J.L. Wallco*, 2013 U.S. Dist. LEXIS 105720; 2:10-cv-01385-JCM-PAL (D. Nev., July 26, 2013). However, “the district court has inherent power ‘to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and

1 for litigants.”” *U.S. v. U.S. Dist. Ct.*, 694 F.3d 1051, 1058 (9th Cir. 2012) (quoting *Landis v.*
2 *N. Am. Co.*, 299 U.S. 248, 254, 57 S. Ct. 163 (1936)). District courts should take a “practical
3 approach” in determining whether to require a party to send a representative with full settlement
4 authority to a pretrial settlement conference and should consider less drastic steps before doing
5 so. *In re Stone*, 986 F.2d 898, 904-05 (5th Cir. 1993). The Federal Rules “should be construed,
6 administered, and employed by the court and the parties to secure the just, speedy and
7 inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1.

8 The representative from Rancho San Rafael Townhomes, Phase I Homeowners
9 Association (“HOA”) is a member of the HOA Board, which is an unpaid, voluntary position.
10 Further, the HOA is a non-profit entity, funded by the assessments paid by the owners of the
11 Association. The HOA Board member who is the representative with settlement authority is a
12 resident of Reno, Nevada. Travel to attend the in-person Settlement Conference would create
13 both a financial and personal hardship upon the Board Member. The HOA requests that the
14 Board Member be allowed to participate in the Settlement Conference by video or telephonic
15 means.

16 Accordingly, Rancho San Rafael Townhomes, Phase I Homeowners Association
17 respectfully requests that the personal attendance of the HOA Board Member be excepted from
18 the Settlement Conference and that video or telephonic participation by the HOA Board Member
19 be allowed at the September 14th, 2017 Settlement Conference.

20 Dated this 5th day of July, 2017.
21

22 **BOYACK ORME & ANTHONY**

23 **GRANTED.** The HOA Board member
24 shall participate by telephone for the
25 duration of the settlement conference.

26 **IT IS SO ORDERED.**

27 Dated: July 6, 2017

28 **By:** /s/ Edward D. Boyack

Edward D. Boyack, Esq.

Nevada Bar No. 5229

Colli C. McKiever, Esq.

Nevada Bar No. 13724

7432 W. Sahara Avenue, Suite 101

Las Vegas, NV 89117

Attorney for Defendant Rancho San Rafael HOA


27 United States Magistrate Judge